ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Implementation of Section 255 of the Telecommunications Act of 1996:	)	WT Docket No. 96-198
	)	
Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment By Persons With Disabilities	)	

REPLY COMMENTS OF
SIEMENS BUSINESS COMMUNICATIONS SYSTEMS, INC.

I. INTRODUCTION

Siemens Business Communications, Inc. (Siemens), by its attorneys, hereby files its reply to the initial comments submitted in response to the Notice of Inquiry ("NOI"), FCC 96-382, issued in the above-captioned proceeding.

In comments dated October 28, 1996, Siemens advocated that:

- The Commission should adopt flexible guidelines, rather than rigid rules.
- The Commission should establish clear guidelines by which a manufacturers' compliance with Section 255 of the Communications Act would be judged (Siemens suggested a four-part test).
- The Commission should rely on consensus engineering standards and should consider establishment of a joint industry-consumer advisory board.

II. THE DEVELOPING CONSENSUS IN THE TAAC SHOULD BE ENCOURAGED

While there are certainly differences of opinion reflected in the comments submitted for this NOI, we begin by observing that there appears to be a developing consensus. Over half of

the commentors on the NOI are fellow members of the TAAC (Telecommunications Access Advisory Committee). We note that both AFB (American Foundation for the Blind) and MATPC (Massachusetts Assistive Technology Partnership Center) explicitly comment favorably on the developing consensus in the TAAC. Siemens adds its voice to this developing consensus.

Some of the important features of this consensus are:

1. A recognition that the goal of telecommunications access is fundamentally necessary and positive.

2. An agreement that only collaborative effort between all involved parties can optimize the realization of telecommunications access.

3. The realization that telecommunications access is a relatively undeveloped discipline.

4. A desire to find solutions which meet the needs of all involved parties.

5. An understanding that the "readily achievable" standard sets a limit on the resources available to address the issue of access.

6. A consensus that the focus of this effort is to provide access to current and future telecommunications products as efficiently and effectively as possible.

Significant challenges to the final realization of a consensus solution lie ahead, however. Siemens encourages the FCC to play an active role in developing this consensus from a "consensus in principle" to a working reality. Specifically, the Commission should 1) facilitate continued dialogue between industry and the disability community and 2) work with industry and the disability community to coordinate the introduction and implementation of disability access design.

III. THE COMMISSION SHOULD ADOPT FLEXIBLE GUIDELINES, RATHER THAN RIGID RULES, TO IMPLEMENT TELECOMMUNICATIONS ACCESS FOR PERSONS WITH DISABILITIES

A large number of commentors favored the flexibility of policy statements or guidelines over rigid rules. The Consumer Electronics Manufacturers Association ("CEMA"), the Telecommunications Industry Association ("TIA"), and the Information Technology Industry Council ("ITI"), Bell Atlantic, Lucent and others favor flexible guidelines. Siemens reaffirms its own position that guidelines are preferred. Indeed, the FCC has frequently utilized policy statements where general guidance served the intended purpose. This trend has been particularly true in new areas where there was not sufficient experience to accurately predict the consequences of alternative courses of regulatory implementation.

We agree with Lucent's comments which recommend the development of policy statements with sufficient specificity to guide in the resolution of disputes. We continue to believe that every effort should be made to minimize formal disputes involving the FCC. Siemens believes (and we think that the majority of manufacturers concur) that our customers should contact us first with any concerns they may have about our products. We believe that most concerns should and will be resolved by direct communications with the manufacturer or by other informal processes.

We are concerned, however, that some proposals for implementing a complaint process under Section 255 will, in

effect, establish a private right of action, a result which is directly contrary to the statute. A manufacturer's determination of technological feasibility and what is "readily accessible" will be highly complex in nature. It would be counterproductive to utilize any system which requires a manufacturer to enter into repeated dialogue and debate regarding these determinations. Indeed, the goal should be to focus as many resources as possible directly on those efforts which will increase telecommunications access.

Indeed, the economic cost to society of mandating inefficient procedures formalized by rigid rules would be staggering. The Cellular Telephone Industry Association ("CTIA") estimates that the wireless industry generated $183.9 billion in business in 1994. If over-burdensome rules slow growth rates even by as little as 1%, the results could mean a loss of over $1 billion and thousands of jobs. Such potential adverse consequences highlight the necessity of developing an efficient system with flexible guidelines that do not hinder industry's growth and are proven to be effective at addressing the needs of the disability community.

IV. THE COMMISSION SHOULD ENCOURAGE THE USE OF CONSENSUS STANDARDS AND THE INTERNATIONAL HARMONIZATION OF THOSE STANDARDS

Siemens concurs with TIA's comment that, "[h]armonization of accessibility guidelines among different countries is an ideal to be sought continuously in a global marketplace." Many consensus standards are needed in order to accomplish the goal of

telecommunications access. Standards are needed to guide the use of design techniques, direct objective testing of product accessibility and to provide for compatibility with adaptive devices. The FCC has extensive experience in the consensus standards process and the promotion of international harmonization. We believe the application of that experience to the enforcement of telecommunications access will substantially improve the ultimate outcome of this effort.

V. THE COMMISSION SHOULD FACILITATE JOINT INDUSTRY AND DISABILITY COMMUNITY COOPERATION ON A BROAD RANGE OF ISSUES

Several parties, such as the Personal Communications Industry Association ("PCIA"), CEMA, TIA, AFB, MATPC and others, commented on the positive benefits of continued cooperation of industry and the disability community in the development of telecommunications access. In the TAAC there is active discussion of establishing an organization, or set of organizations, to perform a number of needed functions, such as:

TRAINING FOR BOTH INDUSTRY AND CONSUMER PARTICIPANTS

PRACTITIONER CERTIFICATION

HOSTING OF ACCESS ENGINEERING SYMPOSIA

PRESENTATION OF ACCESS NEEDS AND STRATEGIES

PROVIDING AN ACCESS ADVISORY PANEL TO THE FCC

COORDINATING RESEARCH

RECOGNITION OF ACCESS INNOVATION

Siemens already is involved in an informal dialogue with other participants regarding the establishment of such an organization.

We urge the FCC to participate in and encourage these efforts. There are substantial benefits to pursuing these goals, even before the guidelines are finalized, in order to facilitate the orderly introduction of the disability access features promoted by Section 255.

VI. ENSURING COMPATIBILITY REQUIRES A COMMITMENT FROM BOTH TELECOMMUNICATIONS EQUIPMENT MANUFACTURERS AND ADAPTIVE TECHNOLOGY MANUFACTURERS

Implementing the compatibility requirement of disability access requires a two-part solution. Both the manufacturers of telecommunications equipment and the developers of adaptive technologies should bear the burden of ensuring compatibility with each other's products. It is unrealistic, and often impossible, from an engineering viewpoint to make different equipment compatible without controlling some aspects of all the affected equipment. For example, if two pieces of equipment are to be connected, the connectors on both pieces of equipment must be compatible. If these two pieces of equipment are to exchange data, then the signal transmission and reception characteristics of both pieces of equipment must be coordinated. In order for pieces of equipment not to interfere with one another, each must provide a minimum level of immunity which is then matched by limits on emissions. For telecommunications equipment to be compatible with adaptive devices, both sets of equipment must be controlled under the same set of complementary requirements. There are cases currently where this fundamental rule has been ignored. The result has been 1) additional cost to one set of

equipment, 2) inconsistent compatibility, or 3) total lack of compatibility.

VII. UNIVERSAL ACCESS SHOULD GUIDE THE PHILOSOPHY OF THESE EFFORTS, BUT TARGETED IMPLEMENTATION SHOULD BE USED FOR THE NEAR TERM

Several commentors specifically recommend the concept of "Universal Design", which is the philosophy of designing every product to be usable by the broadest range of individuals. Although we agree with the concept of universal accessability as a long term goal, Siemens strongly urges that it not be mandated. In the near term, more pragmatic benefits will be derived if universal accessibility initially was adopted as a philosophical direction that was accompanied by a list of priority targeted areas. Specifically, manufacturers could be most effective in addressing access needs by targeting specific access priorities through coordinated research and design efforts. This would provide far more significant contributions to providing accessibility than the efforts of fragmented, individual, unfocused and uncoordinated efforts to achieve "universal acessability."

An example of targeting specific areas of concern is the FCC's WEB site listing of its top ten disability issues:

Number ten.	Hold an "Access 2000" summit with persons with disabilities, industry, and government rulemakers to develop an agenda for action for the next 5 years.
Number nine.	Ensure that all televised Commission meetings and publicly sponsored Commission events are closed captioned, and provide all Commission publications over the Internet so they can be

downloaded in alternative formats, such as Braille, enlarged text, and audio text.

Number eight. Require permanent labeling on all hearing aid compatible communications equipment.

Number seven. Review all the Commission's rules to ensure that advances in network services are accessible to and usable by persons with disabilities.

Number six. Explore assignment of N11 codes for TRS access.

Number five. Consider assigning permanent, exclusive frequencies for assistive listening devices.

Number four. Require volume control on all telephones.

Number three. Expand mandatory minimum TRS program standards by:
(a) requiring CAs (communication assistants) to relay in specifically requested foreign languages;
(b) requiring TTY and Telebraille equipment distribution programs;
(c) requiring operator services to access TTY numbers; and
(d) requiring audiotext capability.

Number two. Ensure that cellular and PCS equipment are hearing aid compatible.

Number one. Determine how to get closed captioning for all television and cable programming.

Siemens submits that a similar list of specific targets will result in more effective and efficient benefits being delivered to the disabled than a broad and abstract philosophical requirement. For the same resources, far more benefit to end users can be derived by carefully defining specific goals. The concept of a market monitoring report or annual accessibility assessment statement (as recommended by Inclusive Technologies

and NYNEX, along with others) could be used as a tool to measure the effectiveness of this approach.

VIII. PRODUCT LINE AND MARKET SOLUTIONS SHOULD BE ALLOWED

Siemens agrees with other industry commentors that many access issues will be difficult, if not impossible, to resolve when addressed on a product-by-product basis. However, when the same issue is approached from a product line or total market perspective, then it would be quite feasible to provide a suitable range of choices for disabled individuals. We strongly encourage that multiple approaches be made available in addressing the issues of accessibility. For some access issues, the most appropriate solution will be to design features into every product. However, if a product-by-product approach fails or becomes unduly cumbersome or expensive, product line and market solutions not only should be allowed but shall be encouraged. In such cases, a company's compliance would be judged by its participation in joint research or a coordinated plan implementing market level solutions. Only by addressing access issues with an appropriate method, which maximizes benefit while minimizing cost, can the greatest access be delivered while protecting the cost and range of choice available to all consumers.

IX. CONCLUSION

Siemens appreciates this opportunity to comment on the appropriate manner to facilitate access to telecommunications services, telecommunications equipment and customer premises

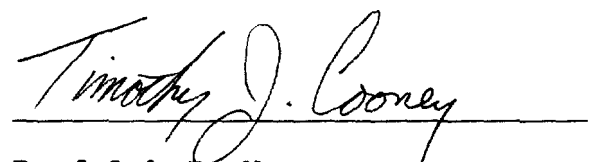
equipment by persons with disabilities. In implementing new Section 255 of the Communications Act, the Commission would do well to act consistently with Chairman Hundt's recent statement:

> The framework we implement should stimulate consultation, cooperation, and voluntary, proactive efforts among the industry and consumers with disabilities to develop "readily achievable" solutions that will bring the benefits of telecommunications technologies to the broadest base of persons with disabilities. Without such a framework, I am concerned that we risk providing the telecommunications industry with a vague and cumbersome mandate that will result in costly and complex complaint proceedings rather than cooperative and innovative solutions. I do not believe Congress intended such a result.

Siemens has been and will continue to be heavily involved in just such voluntary and cooperative efforts as it participates in the introduction of telecommunications access efforts. We look forward to working with the FCC, the Access Board and our friends in the disability community in accomplishing these goals.

Respectively submitted,

SIEMENS BUSINESS COMMUNICATION SYSTEMS, INC.



Scott E. Wollaston
Vice President & General Counsel
Siemens Business
Communications Systems, Inc.
4900 Old Ironsides Drive
P.O. Box 58075 M/S 103
Santa Clara, CA 95052-8075

Randolph J. May
Timothy J. Cooney
Sutherland, Asbill & Brennan, L.L.P.
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404
(202) 383-0100

November 27, 1996

Its Attorneys